

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

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<b>ROGER DALE DILLARD, JR.,</b>	)	<b>CV-06-156-BLG-RFC</b>
	)	
<b>Plaintiff,</b>	)	
<b>vs.</b>	)	
	)	
<b>MONTANA DEPARTMENT OF CORRECTIONS, COMMUNITY COUNSELING and CORRECTIONS SERVICES, INC., and S.T.A.R.T. PROGRAM,</b>	)	<b>ORDER ADOPTING FINDINGS AND RECOMMENDATIONS OF U.S. MAGISTRATE JUDGE</b>
	)	
<b>Defendants.</b>	)	
	)	

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On August 30, 2007, United States Magistrate Judge Carolyn Ostby entered her Findings and Recommendation. Magistrate Judge Ostby recommends that Plaintiff's claim for denial of medical care under the Eighth Amendment of the United States Constitution be dismissed and this case be remanded back to the Thirteenth Judicial District Court, Yellowstone County District Court.

Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, Plaintiff filed objections on September 14, 2007. Defendants Community Counseling and Corrections Services, Inc., and S.T.A.R.T. Program responded to Plaintiff's objections. Plaintiff's objections are not well taken.

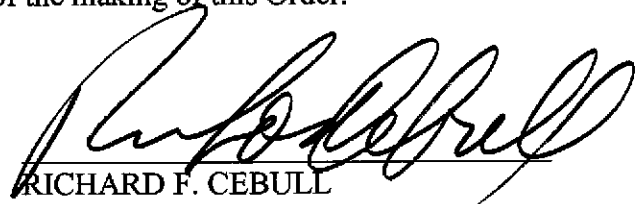
After a de novo review, the Court determines the Findings and Recommendation of Magistrate Judge Ostby are well grounded in law and fact and HEREBY ORDERS they be adopted in their entirety.

Although Plaintiff may have had a condition which required medical treatment, Plaintiff admits in his complaint that the staff at S.T.A.R.T. was attempting to address those concerns. Specifically, the nursing staff advised Plaintiff to try a topical face wash and when that did not work, Plaintiff was told to try something else. Within two months, Plaintiff was given an antibiotic that took care of the infection in approximately one week. This does not amount to deliberate indifference to a serious medical need. Plaintiff cannot state a claim for denial of medical care under the Eighth Amendment of the United States Constitution.

Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's claim for denial of medical care under the Eighth Amendment of the United States Constitution is **DISMISSED** and this case is **REMANDED** back to the Thirteenth Judicial District Court, Yellowstone County District Court.

The Clerk of Court shall notify the parties of the making of this Order.

DATED this 23 day of October, 2007.

  
RICHARD F. CEBULL  
UNITED STATES DISTRICT JUDGE